

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

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BROOKLYN OFFICE

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ANEB SENKITA EL,

Plaintiff,

-against-

MAYOR OF THE CITY OF NEW YORK, et al.,

Defendants.
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ORDER

13-cv-4079 (ENV) (ST)

VITALIANO, D.J.

This action was filed on July 17, 2013, by plaintiff Aneb Senkita El, against a variety of defendants, including the Mayor of the City of New York, the New York City Police Department ("NYPD"), a judge, and several NYPD officers. Occasioned by plaintiff's failure to appear for a deposition and to comply with discovery orders, defendants moved to dismiss the case for failure to prosecute, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *See* Mot. to Dismiss (ECF No. 78). The Court respectfully referred the motion to Magistrate Judge Steven Tiscione.

By Report and Recommendation ("R&R"), dated October 16, 2018, Judge Tiscione recommended that the motion be granted and the action dismissed. R&R (ECF No. 82). Specifically, he analyzed the five factors set forth by the Second Circuit in *Lewis v. Rawson*, 564 F.3d 569, 576 (2d Cir. 2009), and determined that each factor favored dismissal. With notice of the time to object properly given, *see* R&R at 6, no party has filed an objection to the R&R, and the time to do so has passed.

Where no timely written objection has been filed, a district judge need only review such an R&R for clear error. *See Dafeng Hengwei Textile Co. v. Aceco Indus. & Commercial Corp.*, 54 F. Supp. 3d 279, 283 (E.D.N.Y. 2014). In accordance with that standard of review, the Court

has carefully examined Judge Tiscione's R&R, and finds it to be correct, well-reasoned, and free of any clear error. The Court, therefore, adopts the R&R, in its entirety, as the opinion of the Court.

Conclusion

For the foregoing reasons, Magistrate Judge Tiscione's R&R is adopted, in its entirety, as the opinion of the Court. Defendants' motion is granted, and this action is dismissed with prejudice for failure to prosecute.

Regardless of whether and by whom filing fees may have been paid to commence this action, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith and, therefore, *in forma pauperis* status is denied for the purpose of any appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

The Clerk of Court is directed to enter judgment accordingly and to close this case.

So Ordered.

Dated: Brooklyn, New York
November 6, 2018

/s/ USDJ ERIC N. VITALIANO

ERIC N. VITALIANO
United States District Judge